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**RECEIVED**

September 10, 1998

SEP 10 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Via HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

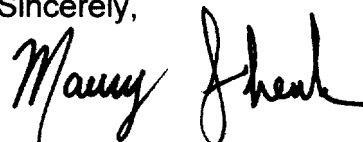
**Re: Forbearance from Applying Provisions of the Communications Act to  
Wireless Telecommunications Carriers, WT Docket No. 98-100**

Dear Ms. Salas:

Enclosed for filing are an original and four copies of the Petition for Reconsideration of Stratos Mobile Networks (USA), LLC in the above-referenced proceeding. Also enclosed is an additional copy of this submission, which we request that you date stamp and return with our messenger.

Please do not hesitate to contact us if you have any questions.

Sincerely,



Alfred M. Mamlet  
Maury D. Shenk

Enclosures

No. of Copies rec'd 014  
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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**In the Matter of**

**Forbearance from Applying Provisions of the  
Communications Act to Wireless  
Telecommunications Carriers**

**WT Docket No. 98-100**

**To: The Commission**

**PETITION FOR RECONSIDERATION**

Stratos Mobile Networks (USA), LLC ("Stratos"), pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, hereby petitions for reconsideration of the Memorandum Opinion and Order released on July 2, 1998 in the above-captioned proceeding (the "Order").<sup>1</sup>

**I. Introduction**

Reconsideration of the Commission's approach to international commercial mobile radio service ("CMRS") detariffing is warranted with respect to international mobile satellite services ("MSS"). Although the Commission treats MSS as CMRS,<sup>2</sup> the Order

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<sup>1</sup> The Commission's rules provide that "[a]ny interested person may petition for reconsideration of a final action in a [rulemaking] proceeding . . . ." 47 C.F.R. § 1.429(a). Stratos is an interested person in this proceeding as a U.S. provider of mobile satellite services, including Inmarsat services.

<sup>2</sup> See Implementation of Sections 3(n) and 332 of the Communications Act, 9 FCC Rcd. 1411, 1424 (1994) (mobile satellite services are CMRS).

does not separately mention MSS. In the Order, the Commission adopted permissive detariffing for the international services of CMRS providers, except on routes on which the provider is affiliated with a foreign carrier that collects settlement payments from U.S. carriers.<sup>3</sup> Stratos agrees with the rationale for this approach – i.e., that on affiliated routes “the carrier and its affiliate may have the ability and incentive to engage in anticompetitive pricing behavior that can harm competition and competitors in the U.S. market.”<sup>4</sup> Consistent with this rationale, international MSS require different treatment than CMRS in general, in two respects.

**First**, the Commission’s approach overlooks, apparently inadvertently, that market power on an international CMRS route may also exist due to a dominant position on the U.S. end of the route. The only CMRS provider that has such a dominant position is COMSAT Corporation (“COMSAT”) – with respect to the MSS that it provides over the Inmarsat system. **Second**, there is no reason to require filing of tariffs for international MSS calls on which the foreign end of the call is terminated on a mobile earth terminal (“MET”), because such calls are by definition not terminated over the facilities of a foreign affiliated carrier.

## **II. COMSAT Must Be Required To File Tariffs for Its Inmarsat Services**

Permissive detariffing is not appropriate for the Inmarsat services that COMSAT provides as a dominant carrier. COMSAT is the only U.S. CMRS provider that

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<sup>3</sup> Order ¶¶ 55-65.

<sup>4</sup> Id. ¶ 60.

continues to regulated as dominant on all routes.<sup>5</sup> COMSAT retains the exclusive right to act as U.S. Signatory of Inmarsat,<sup>6</sup> and is entitled to benefit from the privileges and immunities that Inmarsat enjoys as an international organization.<sup>7</sup> Furthermore, despite the fact that the Commission has issued numerous authorizations to entities other than COMSAT to provide U.S.-originated Inmarsat services,<sup>8</sup> COMSAT continues to argue in various Commission proceedings that it has an exclusive right to provide space segment for U.S.-originated Inmarsat services (and that it has merely waived that right in the proceedings in which the Commission has issued authorizations to other parties).<sup>9</sup>

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<sup>5</sup> See Regulation of International Common Carrier Services, 7 FCC Rcd. 577, 581 (1992) (COMSAT dominant for provision of INTELSAT and Inmarsat services); see also COMSAT Corporation, 1998 FCC LEXIS 1974 (rel. Apr. 28, 1998) (reclassifying COMSAT as non-dominant on certain routes with respect to INTELSAT services only).

<sup>6</sup> See 47 U.S.C. § 503(a).

<sup>7</sup> See 22 U.S.C. § 288-288f (International Organizations Immunities Act); Exec. Order No. 12,238, 45 Fed. Reg. 60,877 (1980) (conferring immunities on Inmarsat).

<sup>8</sup> See AT&T Corp., 1997 FCC LEXIS 3488 (rel. July 3, 1997) (Inmarsat-A, -B, -C and -M services); IDB Mobile Communications, Inc., 11 FCC Rcd. 2913 (1996) (Inmarsat-B and -M services); IDB Mobile Communications, Inc., 10 FCC Rcd. 12082 (1995) (Inmarsat aeronautical services); IDB Aeronautical Communications, 8 FCC Rcd. 8432 (1993) (interconnection between IDB Mobile and AT&T); IDB Aeronautical Communications, 8 FCC Rcd. 8431 (1993) (interconnection between IDB Mobile and MCI); IDB Mobile Communications, Inc., 8 FCC Rcd. 5616 (1993) (Inmarsat-B and -M services); IDB Aero-Nautical Communications, Inc., 8 FCC Rcd. 930 (1993) (Inmarsat-A land mobile services); IDB Aero-Nautical Communications, Inc., 6 FCC Rcd. 2485 (1991) (Inmarsat-A maritime and aeronautical services).

<sup>9</sup> See, e.g., Petition to Deny Application for Special Temporary Authority, File No. ITC-98-103, at 3-5 (July 24, 1998); Opposition of COMSAT Corporation, File No. ISP-98-003, at 7-14 (Apr. 10, 1998); Petition to Deny of COMSAT Mobile Communications, File No. ITC-98-103, at 8-17 (Mar. 11, 1998). COMSAT's waiver argument is entirely lacking in force. If the International Maritime Satellite Telecommunications Act barred the Commission's authorizations, as COMSAT claims, then the Commission would have lacked authority to issue them, regardless of any purported "waiver" of statutory rights by COMSAT.

So long as COMSAT is a dominant carrier for the provision of Inmarsat services, the Commission must require COMSAT to continue to file tariffs for those services – in order to address the risk of market-distorting behavior that the Commission identified in the Order. Furthermore, the Commission should continue to regulate COMSAT as a dominant carrier at least until COMSAT waives all privileges and immunities that it has with respect to Inmarsat services and abandons the anticompetitive legal position that it has a monopoly with respect to provision of space segment for U.S.-originated Inmarsat services.

### **III. Detariffing Is Appropriate For Fixed-to-Mobile and Mobile-to-Mobile MSS Provided by Foreign-Affiliated Carriers**

The Commission should extend CMRS permissive detariffing to all international MSS (except the Inmarsat services of COMSAT) where the foreign end of the call is terminated on a MET – i.e., U.S.-originating fixed-to-mobile and mobile-to-mobile MSS calls. Section 10 of the Communications Act, 47 U.S.C. § 160, requires detariffing under these circumstances even if the U.S. service provider has an affiliate on the route that collects settlement payments from U.S. carriers. The Commission's rationale for maintaining tariff filing obligations on such affiliated routes – that "the carrier and its affiliate may have the ability and incentive to engage in anticompetitive pricing behavior that can harm competition and competitors in the U.S. market"<sup>10</sup> – is simply not relevant to MSS calls terminated on an MET.

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<sup>10</sup> Id. ¶ 60.

Fixed-to-mobile or mobile-to-mobile MSS calls are routed directly from a MSS satellite to a MET. Therefore, there is no way that a foreign affiliated carrier could be involved in terminating such calls, and it is impossible for the U.S. carrier and its foreign affiliate to engage in "anticompetitive pricing behavior" with respect to such calls. Accordingly, permissive detariffing for fixed-to-mobile or mobile-to-mobile MSS provided by foreign-affiliated carriers is entirely consistent with the standards for forbearance of Section 10 of the Communications Act.<sup>11</sup>

#### **IV. Conclusion**

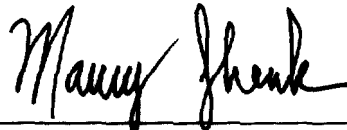
For the reasons set out above, Stratos respectfully requests that the Commission reconsider the detariffing portion of the Order. The Commission should (1) order COMSAT to continue to file tariffs for Inmarsat services on all international routes

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<sup>11</sup> See 47 U.S.C. § 160(a) (forbearance required where regulation is not necessary (1) to ensure reasonable charges and practices, (2) to protect consumers, or (3) to further the public interest); Order ¶¶ 56-59 (conducting Section 10 forbearance analysis with respect to detariffing of CMRS international services).

and (2) extend extend permissive detariffing to all international fixed-to-mobile and mobile-to-mobile MSS calls (other than those carried by COMSAT).

Respectfully submitted,



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September 10, 1998

### CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petition for Reconsideration was served this 10th day of September 1998, by hand delivery on the following:

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